

**APR 17 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

TAYLOR FORCE; et al.,

Plaintiffs,

and

STEVEN DANIEL FORCE, an  
involuntary civil detainee,

Plaintiff - Appellant,

v.

MELVIN HUNTER; et al.,

Defendants - Appellees.

No. 05-55917

D.C. No. CV-05-02534-CBM

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Consuelo B. Marshall, Chief Judge, Presiding

Submitted April 13, 2006<sup>\*\*</sup>

Before: SILVERMAN, McKEOWN, and PAEZ, Circuit Judges.

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Civil detainee Steven Daniel Force appeals pro se from the district court's order denying him leave to file his civil rights complaint in forma pauperis. We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion the denial of leave to proceed in forma pauperis, *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990), and we reverse and remand.

Force's civil rights complaint alleges constitutional violations associated with Atascadero State Hospital's rules banning visitation with minor family members.

The district court's order denies Force leave to file in forma pauperis on the basis that official capacity suits for damages are barred under 42 U.S.C. § 1983. While this is correct, Force's complaint also names the defendants in their individual capacities, *see Hafer v. Melo*, 502 U.S. 21, 31 (1991) (state officials named in their individual capacities are persons for purposes of section 1983); *Romano v. Bible*, 169 F.3d 1182, 1185-86 (9th Cir. 1999) (where a plaintiff is seeking damages against a state official, a strong presumption is created in favor of a personal-capacity suit because an official-capacity suit for damages would be barred). Moreover, Force's complaint requests injunctive and declaratory relief, in addition to damages. *See e.g. Will v. Michigan Dep't of State Police*, 491 U.S. 58,

71 n.10 (1989) (state officials sued in their official capacity for injunctive relief are persons for purposes of section 1983).

Accordingly, we reverse and remand to the district court to file the complaint.

Force's extraordinary writ is denied.

**REVERSED and REMANDED.**